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IN THE
Supreme Court of the United States

PAYSOFF TINKOFF, <i>Plaintiff-Appellant,</i>	}	No. 1263.
vs.		
NIGEL D. CAMPBELL, etc., et al., <i>Defendant-Appellee.</i>		

APPELLANT'S REPLY BRIEF.

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APPELLANT'S REPLY BRIEF.

Now comes Paysoff Tinkoff, appearing *pro se*, and does herewith file his Reply Brief to the Brief of the Appellee in opposition, filed in this Court.

I.

**Failure of Appellee to Directly Answer the Questions
Raised Herein.**

A careful reading of the Appellee's Brief, in the opinion of the Appellant, shows that the Appellee has failed to spe-

cifically answer the principal contention of the Appellant that a "*Taxpayer*" is a person, separate and distinct from a "*Claimant*", and that the two words as used in the Internal Revenue Code, and also in the Act of July 7, 1884, and in Circular 230, are not similar and interchangeable; and further that Appellant's constitutional rights have been grossly violated.

The Appellant has shown that this Court in the case of *Hobbs v. McLean*, 117 U. S. 567 held that "a claim is a right to demand money from the United States," and a *Claimant* must be a person who is the possessor of that right.

A *Taxpayer* has no right to demand money from the United States, but his duty is to pay money to the United States pursuant to Statute.

A *Taxpayer* becomes a *Claimant* only when the *Taxpayer* has overpaid the taxes lawfully due from the *Taxpayer* to the Government, and filed a Claim for Refund on Form 843, and other documents seeking its return and recovery, pursuant to the administrative provisions of the Internal Revenue Code, Sec. 322, and the Regulations promulgated thereunder.

The Appellee on pages 9 and 10 of his Brief says that the word "Claim" is sometimes used in a broad sense, and is not always limited to "claims for the return of money," citing *Prigg v. Penna.*, 16 Pet. 539, 615; *So. Pac. R. R. Co. v. U. S.*, 3 8Fed. 55, 56.

This Court in the case of *Prigg v. Penna.* in 16 Pet. 539, on page 615, says:

“What is a claim? It is, in a just juridical sense, a demand of some matter as of right made by one person upon another, to do or to forbear to do some act or thing as a matter of duty.”

The Court in the case of *So. Pac. R. R. Co. v. U. S.*, 38 Fed. 55, on page 57, said:

“Indeed, money demands, *except perhaps in the Treasury Department*, constitute but a small fraction of the ‘claims’ or ‘matters’ pending in the Executive Department.” (Italics supplied.)

In this case, the Court specifically said that in the Treasury Department “a claim is a money demand,” when the Court said “Indeed, money demands, *except perhaps in the Treasury Department*” constitute a small fraction of the claims, in other Executive Departments.

The Appellant admits that a “claim” can include a right for the return of property, as well as the return of money, as stated in the cases aforementioned; but the word “Claimant,” as used in the Act of July 7, 1884, empowering the Secretary of the Treasury to promulgate regulations regarding attorneys and agents representing “claimants,” can only mean “one who has overpaid monies to the United States Treasury in excess of that lawfully due the United States Treasury.”

Therefore, the Secretary of the Treasury has jurisdiction over representatives of “Claimants”, seeking return of refunds from the United States Treasury; and has no jurisdiction over “Taxpayers” or their representatives, when seeking to show that their tax return, as filed, is true and correct.

II.

The Appellant's Constitutional Rights of Liberty, Property and the Pursuit of Happiness Have Been Violated.

The Appellee has wholly ignored the Appellant's contention that his constitutional rights, as guaranteed by the Fifth Amendment of the Consitution, to-wit, "No person shall be * * * deprived of life, liberty or property without due process of law"; and that "life, liberty and the pursuit of happiness are inalienable rights guaranteed by the Declaration of Independence."

The record shows that Appellant's contracts have been breached by the various Taxpayers, due to threats and statements made to the Taxpayers by the Appellee—the Collector of Internal Revenue—and that the Taxpayer's present vocation as a "Tax Accountant" is one guaranteed by the Constitution of the United States, and is not subject to regulation, State or Federal, as not being affected with public interest; and that the Appellant's business, as a "Tax Accountant", has been and is greatly impaired, due to the conduct and acts of the Appellee; and that Appellant has been unable to enforce his contracts with the Taxpayers, because the Appellee specifically denies the Appellant the right to represent the Taxpayers,—before the Office of the Collector—solely to show that the Taxpayers' Tax Return, as filed, is true and correct.

The Appellant's right to use his faculties to make a living, and to support his family and himself, has been greatly impaired by the acts of the Appellee; and if such acts of Appellee are continued, Appellee will be deprived of his opportunity to use his faculties to earn a livelihood, in violation of the Fifth Amendment to the Constitution of

the United States, that "no person shall be deprived of life, liberty or property, without due process of law."

This Court, in the case of *Munn v. Illinois*, 94 U. S. (4 Otto) 113; 24 L. Ed. 77, on page 90, in the Dissent of Mr. Justice Field, in defining liberty, says as follows:

"By the term 'liberty,' as used in the provision, something more is meant than mere freedom from physical restraint or the bounds of a prison. It means freedom to go where one may choose, and to act in such manner, not inconsistent with the equal rights of others, as his judgment may dictate for the promotion of his happiness; that is *to pursue such callings and avocations as may be most suitable to develop his capacities, and give to them their highest enjoyment.*" (Italics supplied.)

This Court in the case of *West Coast Hotel Company v. Parrish*, 300 U. S. 379, on page 392 said:

"Liberty implies the absence of arbitrary restraint, not immunity from reasonable regulations and prohibitions imposed in the interest of the community."

This Court in the case of *Liberty Warehouse Company v. Burley Tobacco Growers Co-Op Marketing Association*, 276 U. S. 71, on page 97, said:

"*The liberty of contract guaranteed by the Constitution is freedom from arbitrary restraint—not immunity from reasonable regulation to safeguard the public interest.*" (Italics supplied.)

This Court in the case of *Meyer v. State of Nebraska*, 262 U. S. 390, on page 399, said:

"Without doubt, it (meaning liberty) denotes not merely freedom from bodily restraint but also the right of the *individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up*

children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men." (Italics supplied.)

The Supreme Court of Illinois in the case of *Matthews v. People*, 202 Ill. 389, on page 401, said:

"It is now well settled that the *privilege of contracting* is both a liberty, and a property right. *Liberty includes the right to make and enforce contracts*, because the right to make and enforce contracts is included in the right to acquire property. *Labor is property*. To deprive the laborer and the employer of this right to contract with one another is to violate section 2 of article 2 of the constitution of Illinois, which provides that 'no person shall be deprived of life, liberty or property without due process of law.' It is equally a violation of the fifth and fourteenth amendments of the constitution of the United States, which provide that no person shall be deprived of life, liberty or property without due process of law, 'nor deny to any person within its jurisdiction the equal protection of the laws.' " (Italics supplied.)

These constitutional rights, Appellant submits, have been denied to Appellant, and have been grossly violated by the Appellee, in this proceeding.

III.

The Other Matters Raised by Appellant, Not Waived Herein.

The Appellant in this proceeding had the Briefs filed below, certified as part of the Record to this Court, and is submitting to this Court as Exhibits A, B and C of this

Reply Brief, to be distributed to the Justices of this Court, a copy of the three (3) Briefs filed below, and presented and argued before the Court below, to show this Court that the questions presented on page 3 of the Appellant's present Petition for Certiorari, was wholly ignored by the Court below, and are not waived by the Appellant herein.

IV.

Conclusion.

The Appellant respectfully submits that he is entitled to have the Circuit Court of Appeals specifically answer the questions raised before that Court, decided by that Court; and further that the Circuit Court of Appeals was in error, as a matter of law, in holding that a "Taxpayer" is a "Claimant" under the Act of July 7, 1884, and in Circular 230, promulgated by the Secretary of the Treasury under the Act aforementioned.

The above is

Respectfully submitted,

PAYSOFF TINKOFF,

Appellant, Pro Se.